

LEGISLATIVE COUNCIL

Thursday, November 4, 1965.

The PRESIDENT (Hon. L. H. Densley) took the Chair at 2.15 p.m. and read prayers.

EDUCATION ACT AMENDMENT BILL.

His Excellency the Governor's Deputy, by message, intimated his assent to the Bill.

QUESTIONS**TRAFFIC REPORT.**

The Hon. Sir NORMAN JUDE: I ask leave to make a statement prior to asking a question.

Leave granted.

The Hon. Sir NORMAN JUDE: I noticed in the press last night and again this morning a considerable number of extracts from a report of the Road Traffic Board. Although I am aware that it is not necessary for that report to be tabled in Parliament, in view of the considerable interest it has for every honourable member will the Minister of Roads make it available to honourable members when convenient?

The Hon. S. C. BEVAN: This report is not an annual report of the Road Traffic Board; it is a report flowing from investigations in relation to pedestrian traffic movements, vehicular traffic generally, the establishment of zebra crossings, and things incidental to these matters. After investigations, the report was made, and some of its contents have been publicized. The report recommended the erection of pedestrian over-passes in certain parts of the metropolitan area, including Elizabeth, and the establishment of zebra crossings. As it is not an annual report it will not be tabled but, if the honourable member desires to look at it, I will make it available to him. I received it myself only this morning.

NORTHERN ROAD.

The Hon. R. A. GEDDES: I ask leave to make a statement prior to asking a question.

Leave granted.

The Hon. R. A. GEDDES: An increasing volume of tourist and commercial traffic travels from Port Augusta to Alice Springs via Kingoonya and it has been reported to me that the road is deteriorating rapidly and badly needs much attention. Will the Minister of Roads ask his colleague, the Minister of Works, whether a greater allocation of funds can be made available for the maintenance of this road?

The Hon. S. C. BEVAN: This is a matter not for the Minister of Works but for the Minister of Roads. I will get a report for the honourable member as soon as possible.

HIGHWAYS.

The Hon. L. R. HART: I ask leave to make a statement prior to asking a question.

Leave granted.

The Hon. L. R. HART: In my Address in Reply speech on May 26 I suggested that in the interests of safety consideration should be given to building dual highways through some of the smaller towns in the near metropolitan area before the dual highways contemplated reached those towns. At present there is the problem of local traffic and pedestrians facing the hazard of fast-moving through traffic. In my Address in Reply speech I mentioned the town of Virginia. At present in that town some roadworks appear to be in progress. I am not sure whether they are being carried out by the Highways Department or the District Council of Munno Para—probably by the district council. Can the Minister of Roads say whether consideration has been given to the building of dual highways in these towns at an early date?

The Hon. S. C. BEVAN: Consideration is, of course, continually being given to these matters by the Highways Department. Hence, we have what is known as the M.A.T.S. study (Metropolitan Adelaide Transport Study) at present taking place. From that there will flow a considerable amount of activity in dual highways. I should not like to see these things done piecemeal (such as putting a section of dual highway through one town and another section somewhere else), with bits and pieces all over the place. These matters are receiving serious consideration by the Highways Department.

UPPER MURRAY HOUSING.

The Hon. C. R. STORY: Has the Chief Secretary a reply to my question of October 27 about Upper Murray housing?

The Hon. A. J. SHARD: Yes. The reply is as follows:

At the end of October, 1965, 69 of the houses referred to were under construction as follows: Loxton 14, Renmark 15, Berri 15, Barmera 15, and Waikerie 10. None has yet been completed.

BANK AMALGAMATION.

The Hon. M. B. DAWKINS: I ask leave to make a statement prior to asking a question.

Leave granted.

The Hon. M. B. DAWKINS: According to a report in the *Advertiser* of March 10, 1965,

the Premier (Mr. Walsh) said that an important matter which would be introduced early in the session would be the merging of the two banks, the State Bank and the Savings Bank of South Australia. Although the Government obviously cannot carry this out "early in the session", as it is now well on in the year, can the Chief Secretary say whether the Government intends to go ahead with its promise and introduce legislation this session? If so, is it intended that a proportion of the people's savings shall be directed to the use of the trading section of the new bank?

The Hon. A. J. SHARD: This matter has caused the Cabinet some concern, and it has been considered. No final decision has yet been reached but, in view of the amount of legislation before us and the fact that some further important legislation will be introduced, I doubt whether this measure will be dealt with this session. I have no idea of the contents of the Bill and I am afraid I cannot answer the latter part of the honourable member's question.

PERSONAL EXPLANATION: NORTHERN ROAD.

The Hon. R. A. GEDDES: I ask leave to make a personal explanation.

Leave granted.

The Hon. R. A. GEDDES: I apologize to the Minister of Roads for misdirecting my question, but I firmly believed that roads such as this were under the control of the Engineering and Water Supply Department.

The Hon. S. C. BEVAN: If I may crave your indulgence, Mr. President, I should like to reply to the honourable member. It is the responsibility of the Highways Department to do this work, as Highways funds are used, although it is the Engineering and Water Supply Department's gang stationed in the area that does the work on behalf of the Highways Department.

CONSTITUTION ACT AMENDMENT BILL (MINISTERS).

Third reading.

The Hon. A. J. SHARD (Chief Secretary) moved:

That this Bill be now read a third time.

The PRESIDENT: I point out that, this Bill being a Bill to amend the Constitution of the Houses, it is required by Standing Order No. 282 to be passed on the third reading by an absolute majority of the whole number of members of the Council before it can be passed.

I have counted the Council and, there being present an absolute majority, I now put the question, "That this Bill be now read a third time." I hear no dissentient voice, so the question passes in the affirmative.

Bill read a third time and passed.

ROAD TRAFFIC ACT AMENDMENT BILL.

Read a third time and passed.

MARKETING OF EGGS ACT AMENDMENT BILL.

Read a third time and passed.

FOOT AND MOUTH DISEASE ERADICATION FUND ACT AMENDMENT BILL.

Read a third time and passed.

STATUTES AMENDMENT (PUBLIC SALARIES) BILL.

Second reading.

The Hon. A. J. SHARD (Chief Secretary): I move:

That this Bill be now read a second time.

It provides for increases in the salaries of certain public officers whose salary is fixed by Statute. Recently the Public Service Board recommended increases in salaries for heads of departments and the present Bill is designed to provide comparable increases for the officers concerned. Under the provisions of the Bill the salaries of the Auditor-General and the Public Service Commissioner will be £5,800, of the President of the Industrial Court £5,650 (Deputy £4,620), of the Police Commissioner £5,400 and of the Public Service Arbitrator £5,100. A rather greater increase than average is being made in the salary of the Police Commissioner and it is believed that the extensive responsibilities of the Commissioner warrant this.

With regard to the Agent-General, the comparable increase to those granted other senior officers would be about £450 sterling per annum. It has been the practice over the past 12 years to provide for the increases to be made wholly in the salary component of the payment to the Agent-General, while the representation allowance has remained without adjustment at £1,000 sterling per annum since 1953. This has been preferred by recent appointees who have been members of the Public Service, since it has had an advantageous effect upon long service leave and pension entitlements. However, the new appointee, who will take office on March 21, 1966, is not a member of the Public Service and accordingly, because of taxation considerations, he could reasonably expect attention to the representation allowance component. Accordingly, the amending provisions add £448 sterling

to the salary of the present Agent-General leaving the allowance unaltered for the remainder of his term of office; as from March 21, 1966, £420 of the £448 adjustments is proposed for the allowance so that the salary component will be £4,080 sterling or £28 higher than at present. Two other re-arrangements are also proposed for the new Agent-General. It has been the practice for the Government to meet a portion of the income tax of the Agent-General based upon the additional tax attracted by the exchange difference between sterling and Australian pounds. This is already an outdated arrangement which will become even more outdated when Australian currency is converted to a decimal basis. The Government met about £365 in Australian currency of the Agent-General's tax in his latest assessment, or just a little more than £300 sterling. It is proposed to cancel this arrangement when the present Agent-General retires and replace it by an addition of £300 sterling to the representation allowance.

The second re-arrangement relates to an allowance of £200 sterling paid by the Electricity Trust to the present Agent-General. It would seem desirable that the whole of the Agent-General's salary and allowances should be paid by the Government, and accordingly it is proposed that this £200 sterling be added to the statutory allowance from the date of the new appointment, and the trust's payment will thereafter be paid into general revenue. In summary, therefore, it is proposed for the present Agent-General in continuance of past arrangements that he receive in sterling £4,500 salary from the Government, £1,000 allowance from the Government, £200 allowance from the trust, and some rebate of tax at State Government expense which in the latest assessment was nearly £300. This is about £6,000 sterling in all. For the new Agent-General the amount of £6,000 sterling (£4,080 salary plus £1,920 representation allowance) will be paid directly by the Government. All increases of salaries effected by the Bill are made retrospective to July 5, 1965, the date on which salary increases to heads of departments generally became effective.

The Hon. Sir LYELL McEWIN secured the adjournment of the debate.

INHERITANCE (FAMILY PROVISION) BILL.

Adjourned debate on second reading.

(Continued from November 3. Page 2527.)

The Hon. C. D. ROWE (Midland): I support this Bill, subject to one or two comments

that I propose to make in regard to the persons mentioned in clause 5 who have a claim against the estate of a deceased person. At the outset, I wish to express to the Hon. Mr. Potter my appreciation of the thorough way in which he canvassed the provisions of this Bill yesterday. He had done quite an amount of homework, had looked up the provisions in other States and had compared them with what is proposed in this Bill. Because of the exhaustive manner in which he dealt with the matter, I consider that it is necessary for me to speak only relatively briefly.

In many respects, it is similar to the Testator's Family Maintenance Act that is in force at the present time, the main difference, as I see it, being that, whereas under the existing Bill a claim must be made within six months of the grant of probate, under this Bill the period will be 12 months. Clause 7 (2) provides that the court, after hearing such of the persons affected as the court thinks necessary, may extend the time for making an application for benefit under the legislation on such terms and conditions as the court thinks fit. I agree entirely with that provision, because sometimes people are not aware that they have legitimate claims and fail to take action within the six months. I consider the amendment desirable.

Clause 5 substantially extends the groups of persons entitled to claim under the Act. I do not think any objection can be raised to giving the spouse of a deceased person the right to make a claim, but it seems to me somewhat doubtful whether the guilty party in a divorce, having broken up the marriage because of some matrimonial offence, should be entitled to claim against his or her spouse, as the case may be, and I should like an explanation from the Minister as to the reason for that clause.

Quite obviously, the child of a deceased person or the legally adopted child of a deceased person should have a claim and I consider it reasonable that an illegitimate child of a deceased person should be entitled to claim, provided that the conditions set out in subparagraphs (i) and (ii) of clause 5 (f) are complied with, namely, if the deceased person was the mother or was by an affiliation order adjudged the father or if the deceased person either has by a court been ordered to maintain the child wholly or partly or has in writing agreed to maintain it wholly or partly. Similarly, I think it is reasonable that the right should extend to an illegitimate child who, in the lifetime of the deceased person,

lived with and was maintained by the deceased person.

The group that causes me concern is that mentioned in clause 5 (g), where the right to claim is given to a child of a spouse of a deceased person by any former marriage of such spouse. As I interpret that, it covers the case of a man who may have married a widow with two children. That man may never have been associated with the children; he may never have known them but, under this Bill, the two children would have a prior claim against the second husband's estate, whatever the circumstances may be. I think that is probably going a little too far and I should like to hear the Minister's explanation of the reason for carrying it to that extent.

I do not think such a provision as is contained in clause 5 (g) appears in similar legislation in the other States of Australia, in New Zealand or in Great Britain, and to say the provision should go as far as it does is to put an unnecessary tag on an estate. I point out that the child by a former marriage is a stranger in blood as far as the testator is concerned. There would be no blood relationship between them so that whatever was awarded to the child would be taken by him at stranger-in-blood rates for succession duties purposes.

The Hon. S. C. Bevan: But when he marries the mother of the children, does he not also agree to take over the responsibility for the children?

The Hon. C. D. ROWE: That depends. As the Hon. Mr. Potter was careful to point out, a child under this legislation is not only a child under 21 years of age; the Bill covers children over 21 years of age. Children by a previous marriage could well be over 21 years of age, married, and established independently. Elderly people who have lost their partners frequently remarry. When a man, married for the second time, dies at 65 or 70 years of age and his widow has children aged 25 or 30 by her first marriage, it seems wrong that these children should be able to claim against this man's estate in competition with his own descendants, so I think it would not be treading too heavily on the purpose of the Bill if that clause were deleted. I think we rather tend, when speaking of children, to think of small children who may need some assistance. However, the court still has the right to consider the character and conduct of the people concerned and to look at other matters, so it may decide notwithstanding this pro-

vision that these people are not entitled to any assistance. Clause 6 (1) provides:

Where—

(a) a person has died domiciled in the State or owning real or personal property in the State; and

(b) by reason of his testamentary dispositions or the operation of the laws of intestacy or both, a person entitled to claim the benefit of this Act is left without adequate provision for his proper maintenance, education or advancement in life, the court may, upon application by or on behalf of a person so entitled, order that such provision as the court thinks fit shall be made out of the estate of the deceased person for the maintenance, education or advancement of the person so entitled.

As Mr. Potter pointed out, in the Act that this Bill repeals the words "in its discretion" are inserted in the appropriate section as well as the words "as the court thinks fit". I should like to see those words written into this Bill; it would then mean that the court as it thought fit and in its discretion may decide what allowance should be made. My reason for suggesting that is that the circumstances and the facts that may arise in a claim of this nature vary according to all the different families likely to become claimants, so it is difficult to set out a rule of thumb or a stereotyped plan under which a court should act. I think that in this matter the court should have the widest discretion to make or refuse to make an order, as it thinks fit. This matter is considered not by the junior courts but by judges of the Supreme Court who, by their very nature, are experienced men who possess an abundance of judgment and are competent in every respect. I therefore think this matter can be left for them to exercise a fairly wide discretion. I give notice that when the Bill is considered in Committee I will move to insert after the words "if the court thinks fit" the words "in its discretion". I cannot imagine that the Government can have any objection to that.

The Hon. F. J. Potter: I think that in the present Act these words appear after the word "may".

The Hon. C. D. ROWE: I am speaking without the benefit of a draft, but I want to insert those words in the appropriate place. I think if the provision read, "The court may order that such provision as the court in its discretion thinks fit", it would meet the case. I turn now to clause 6 (3), which provides:

The court may refuse to make an order in favour of any person on the ground that his character or conduct is such as, in the opinion

of the court, to disentitle him to the benefit of this Act.

This clause obviously gives very wide powers to a court, which has to decide what constitutes character and conduct that would justify it in not granting relief. What is meant by that is difficult to determine. Does it mean the conduct of the claimant in relation to the deceased person? Does it mean that if he is a stepson he has not treated his stepfather as he ought to have done? Does it mean that he has ignored his father in his life-time and has not accepted the responsibilities one would expect a son to accept? Does it mean that he has been involved in police prosecutions or that he is an unworthy person? All these things are left to the discretion of the court, which can look at the whole picture and, having done so, decide whether an order should be made. In this instance I do not oppose granting the court that discretion because, if a son has not accepted his responsibilities towards his father, if he has been a no-hoper during his life, or if the father thinks that any provision he makes will be wasted, these things should be considered.

The Hon. S. C. Bevan: Isn't your previous objection taken care of by this subclause?

The Hon. C. D. ROWE: No, I think the court should have discretion on matters other than the character and conduct of the claimant. It should have a discretion also when it considers who are the other beneficiaries of the estate, what is the value of the estate and who is entitled to make a claim, because the justification for a claim under this clause can vary according to the financial position of the people claiming, the size of the estate, and the assistance the deceased may have given during his life-time—a thousand and one things may come into consideration, so I think we should give the courts the widest possible discretion, realizing that circumstances do alter.

Many years ago, when money was worth considerably more than it is now, a testator left his wife £100 a week, and she applied to the court for more on the ground that she had not been adequately provided for and was not able to maintain her standard of living on the same basis as previously. I suppose the wives of most members making a claim on that basis would want a good Queen's Counsel to conduct their cases. Leaving that aside, however, I think we can leave this matter in the discretion of the court, particularly as it is the Supreme Court, and I will move the amendment I have mentioned. However, if the Minister decides to move it, I shall not object.

Subject to this and to some queries I shall raise regarding the people entitled to claim, I support the Bill.

The Hon. H. K. KEMP secured the adjournment of the debate.

ELECTRICITY (COUNTRY AREAS) SUBSIDY ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 3. Page 2545.)

The Hon. R. A. GEDDES (Northern): Speaking in support of this Bill, I wish briefly to comment on it and its value to the whole community, particularly those who live outside the boundaries of the city of Adelaide. The rates for consumers of electricity in the country have been dramatically reduced as a result of the Government subsidy plan in the original Act. It means that all Electricity Trust consumers anywhere in the State now enjoy single-meter tariffs at metropolitan rates as a result of either the operation of this Act or the trust's action from its own resources. In addition, those people who are supplied with electricity indirectly by the trust through bulk supply sales enjoy similar substantially reduced rates. All consumers supplied by country electricity undertakings whose tariffs are more than 10 per cent above the metropolitan rate are, under this Act, receiving substantial discounts, which range, I understand, from 20 to 25 per cent, so that the consumers' costs should never be greater than 10 per cent above the metropolitan rate.

From a comment by the Auditor-General that I read in the press, there is some doubt whether this fund will be sufficient to meet all the needs for future subsidies, but we must wait for the problems as they arise. This Bill will benefit the community. However, there is one problem. The Bill gives a subsidy to the home consumer whether he gets his current and power from a privately-owned plant or from E.T.S.A.; but the costs for the commercial user, as far as I can gather from questions I have asked in the country, are still some 20 to 25 per cent higher than they are in the city or where E.T.S.A. electricity is supplied in the country. This imposes a degree of hardship on the cafe proprietor, the hotel keeper, the garage man, etc.—those people who are denied the amenities of the city. They are having to pay a higher rate; 20 to 25 per cent is a considerably higher rate, which means that they are having to pass on these extra costs to the public in some way or other. I hope, therefore, that the trust will be able, by means of

forward thinking, to see its way clear, having made the home consumers' prices reasonable, to deal with the problem of the commercial user of power.

Let me refer to one town that receives assistance by this Bill—Peterborough, which is supplied with electricity by the district council. The household consumer's rate is 10 per cent above that operating in the city. Because of the subsidy this electricity supply undertaking has received in the past, enabling it to supply power more cheaply, more people have used its power, the process thus being one of continuing advancement. The electricity undertaking at Peterborough has been able to save money. At the moment it has an order to buy new electric generating equipment costing £19,479, for which, subject to the Minister's approval, it will be able to pay cash. Peterborough has been able to extend its electrification to the township of Yongala and to Nantabibbie, a small settlement to the north-east of Peterborough where a television repeater station has been erected, designed by the Australian Broadcasting Commission to provide television services for Broken Hill. Metro Meat Company, a large meat undertaking with connections throughout Australia, has extensive plans for increasing and enlarging the abattoirs at Peterborough. This, too, will use a vast amount of electricity, all of which will be coming from the Peterborough District Council undertaking. As I said earlier, once the cost of electricity was reduced, so more people used it, thus producing a slowly growing snowball which is benefiting the whole community. I have much pleasure in supporting the second reading.

Bill read a second time and taken through Committee without amendment. Committee's report adopted.

COMPANIES ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 3. Page 2546.)

The Hon. M. B. DAWKINS (Midland): I support the provisions in the Bill with the exception of the last one. In his second reading explanation the Chief Secretary said:

The amendment to item 39 thereof provides that the fee for lodging an annual return of a company would be increased from £2 to £3. The reason for this increase is to obtain funds for the purpose of investigation of the affairs of companies.

It is easy to say that this proposed increase in the fee is only a matter of another £1, but it represents a 50 per cent increase. I would not suggest that no companies in South Aus-

tralia need investigation, because we all know that some do need to be investigated from time to time, but why should we have to increase the fee for all companies to meet the cost of investigating a few companies? Reputable companies are being asked to pay a 50 per cent increase in the fee. I am opposed to the implication in the Minister's statement that the reason for the increase is to obtain funds for the purpose of investigation of the affairs of companies. It seems to me that the money received will be put on one side, as a sort of nest egg, to enable the responsible Minister to have the affairs of companies investigated, and it may well be that many more companies will be investigated than need to be investigated. I oppose the proposed increase of 50 per cent in the fee. I believe the money will be used to enable someone to ferret out matters in connection with some companies when those companies should not be interfered with in any way. This is a serious matter. Except in this respect I support the Bill.

The Hon. R. C. DeGARIS secured the adjournment of the debate.

PRIVATE PARKING AREAS BILL.

In Committee.

(Continued from November 3. Page 2544.)

Clause 6—"Removal of vehicles"—reconsidered.

The Hon. A. J. SHARD (Chief Secretary): When the Committee reported progress yesterday we were considering a query raised by the Hon. Sir Norman Jude, who said that under the clause there could be a recurring offence from day to day. The Government thought there was some merit in the matter raised, so we asked the Assistant Parliamentary Draftsman (Mr. Daniel) to look at it. He did so, and so did Sir Norman Jude and myself. Then we called in an eminent counsel and, free of charge, we obtained advice from him. We believe that the suggested amendment could be just as embarrassing as the clause. I understand that Sir Norman is now happy to accept the clause, as I am. Having received advice from the Assistant Parliamentary Draftsman and the eminent counsel, we believe it will be wise to pass the clause. I will not move an amendment to it. I think this is a good example of democracy at work in this Chamber.

The Hon. Sir NORMAN JUDE: I agree entirely with what the Chief Secretary has said. We had a careful look at the matter

because it seemed that the provision was open to abuse, but I am now happy to accept it.

The Hon. C. D. ROWE: I also agree entirely with the remarks of the Chief Secretary. This Council is always an example of how democracy works.

Clause passed.

Title passed.

Bill reported without amendment. Committee's report adopted.

ADJOURNMENT.

At 3.13 p.m. the Council adjourned until Tuesday, November 9, at 2.15 p.m.